

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Ernst KELLER et al.

Art Unit: 3676

Application No.: 10/541,069

371 (c) dated:

Examiner: A. M. MERLINO

Filed: April 21, 2006

Washington, D.C.

For: ELECTRONIC LOCKING DEVICE AND SECURITY KEY

Atty.'s Docket: KELLER=17

Confirmation No.: 6116

Date: January 27, 2009

Customer Service Window, Mail Stop Amendment

Honorable Commissioner for Patents  
U.S. Patent and Trademark Office  
Randolph Building, 401 Dulany Street  
Alexandria, Virginia 22314

Sir:

Transmitted herewith is a **REPLY TO COMMUNICATION OF January 12, 2009** in the above-identified application.

☐ Small Entity Status: Applicant(s) claim small entity status. See 37 C.F.R. §1.27.

☒ No additional fee is required.

☐ The fee has been calculated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)	SMALL ENTITY		OTHER THAN SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS	RATE	ADDITIONAL FEE	RATE	ADDITIONAL FEE
TOTAL	*	MINUS	** 20	0	x 26	\$	x 52	\$
INDEP.	*	MINUS	*** 3	0	x 110	\$	x 220	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ 195	\$	+ 390	\$
					ADDITIONAL FEE TOTAL		TOTAL	

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.

\*\*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

☒ Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

☐ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

☐ First - \$ 65.00

☐ Second - \$ 245.00

☐ Third - \$ 555.00

☐ Fourth - \$ 865.00

Month After Time Period Set

Other Than Small Entity

Response Filed Within

☐ First - \$ 130.00

☐ Second - \$ 490.00

☐ Third - \$ 1110.00

☐ Fourth - \$ 1730.00

Month After Time Period Set

☐ Less fees (\$ ) already paid for month(s) extension of time on .

☐ Please charge my Deposit Account No. 02-4035 in the amount of \$ .

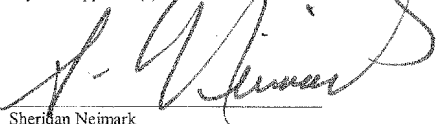
☐ Credit card payment authorizing payment in the amount of \$ .

☐ A check in the amount of \$ is attached (check no. ).

☒ The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

BROWDY AND NEIMARK, P.L.L.C.

Attorneys for Applicant(s)

By:   
Sheridan Neimark  
Registration No. 20,520

Facsimile: (202) 737-3528

Telephone: (202) 628-5197

SN:jnj

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: KELLER=17

In re Application of:	)	Confirmation No.: 6116
	)	
Ernst KELLER et al.	)	Art Unit: 3676
	)	
Appln. No.: 10/541,069	)	Examiner: A. M. MERLINO
	)	
Filed: April 21, 2006	)	Washington D.C.
	)	
For: ELECTRONIC LOCKING DEVICE )		January 27, 2009
AND SECURITY KEY )		

REPLY TO COMMUNICATION OF JANUARY 12, 2009

Customer Service Window  
Randolph Building, Mail Stop Amendment  
401 Dulany Street  
Alexandria, VA 22314

Sir:

The communication of January 12, 2009, alleges that applicants' remarks of the Reply filed October 14, 2008, do not meet the requirements of 37 CFR 1.111 with respect to claim 33. Applicants respectfully traverse such a conclusion as erroneous, and therefore traverse entirely the communication of January 12, 2009, and request that it be withdrawn.

The PTO communication of January 12, 2009, does not indicate what part of Section 1.111 has been violated, but from the text at the top of page 2 thereof, applicants assume

that the examiner is relying on the last paragraph of 37 CFR

1.111(b), which states:

A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

However, contrary to the Communication of January 12, 2009, applicants' reply of October 14, 2008, fully complies with the requirements of 37 CFR 1.111 with respect to claim 33 as pointed out below.

1. In the third paragraph on page 7 of the October 14 Reply, applicants stated as follows:

..., applicant has drafted new independent claim 33... to eliminate each of the problems identified by the examiner, with the exception of changing "the axis" to "an axis", as "the" axes claim is inherent to the security key and requires no further antecedent basis.

Applicants thus fully replied in this regard.

2. At the end of the first paragraph on page 8 of the October 14 reply, applicants stated as follows:

Applicant respectfully traverses these rejections as applied to new independent claim 33 and amended independent 27 and claims dependent therefrom.

Applicants thus specifically traversed the rejection with respect to new claim 33.

3. After thoroughly discussing the prior art and pointing out why the claims define over the prior art as applied in the rejections, applicants stated as follows at the middle of page 11 of the October 14 reply:

(6) Finally, even if there were a teaching of all of the above prior art combinations (not admitted), Applicant submits there is no teaching whatever of the claimed caps' relative location to the elements claimed on the security key when the cap is secured on the key as set out in the last paragraph of either **independent claim 33** or 27. (Emphasis added)

The aforementioned remarks thus specifically state with respect to new independent claim 33, that the prior art provides "no teaching whatsoever" of the relative location of the claimed cap to the elements claimed on the security key when the cap is secured on the key as set forth in the last paragraph of new claim 33.

Applicants respectfully submit that claim 33 is fully supported by applicants' specification, and that applicants have fully complied with 37 CFR 1.111 in the reply filed on October 14, 2008.

However, if more is needed, applicants now specifically note that claim 33 defines patentable subject matter for the reasons set forth in numbered paragraphs (1) through (6) as set forth on pages 8-11 of the Reply filed October 14, 2008, not just only numbered paragraph (6). In

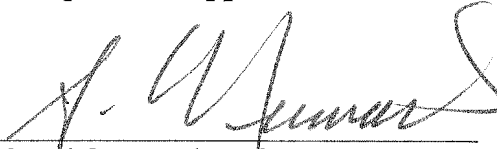
other words claim 33 defines patentable subject matter over the prior art for the same reasons that claim 27 defines patentable subject matter over the prior art.

If applicants have misunderstood the PTO communication of January 12, 2009, the favor of a clarification would be requested. Otherwise, applicants maintain that the Reply of October 14, 2008, was proper and fully responsive, and moreover has been amplified above with respect to the applicability of paragraphs (1) through (6) to claim 33.

Applicants now await the results of a further examination on the merits, and again respectfully request favorable reconsideration and allowance.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant(s)

By   
Sheridan Neimark  
Registration No. 20,520

SN:jnj  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
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